

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2003-51

April 16, 2003

Appeal of Consumer Assistance Division  
Decision #2002-14409 Regarding Central  
Maine Power Company

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

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**I. SUMMARY**

In this Order we direct Central Maine Power Company (CMP) to repurchase a utility pole and refund \$375 to customer John Anderson.

**II. FACTUAL BACKGROUND**

On December 17, 2002, Mr. Anderson complained to the Consumer Assistance Division (CAD) that CMP had installed, and charged him for, a 40-foot pole for a line extension to his new mobile home. When the line was actually installed, CMP attached it directly to his house without using the pole. Mr. Anderson claimed that CMP was unwilling to refund him for the unused pole. When CAD investigated, CMP stated that its field planner had given Mr. Anderson the option of attaching the line directly on his house and that he had insisted on using a pole. CAD issued its decision on January 17, 2003, finding that because Mr. Anderson elected to use the pole and signed a Pole Transfer Agreement, he was responsible for paying for the pole.

On January 21, 2003, Mr. Anderson appealed CAD's decision to the Commission. He claims that CMP never gave him a choice of attaching the line directly to his home and instead the field planner stated that a pole was required. When the inspector and service hook-up crew arrived, they hooked the service directly to his home. Mr. Anderson's electrician had told him this was possible and wired the entrance on his home so that the hook-up could be directly to the house. Mr. Anderson claims he purchased the pole in reliance on CMP's representation that it was necessary. Because it was not necessary, he believes CMP should buy back the pole.

**III. DECISION**

This case presents the difficult situation where the utility claims it stated one thing and the customer claims the utility represented the opposite. Absent reliable independent evidence, in such a circumstance, we look for written evidence such as any records, letters, or transcripts, that either the customer or utility created at the time of the alleged conversation, for support of what actually transpired.

Here CMP has no notes in its records written by the field planner reflecting the conversations that he had with Mr. Anderson at the time of the conversations. Instead, CMP's records reflect the recollection of the field planner in December, after the complaint had been made to CAD. The customer claims he was not given a choice about the pole, while CMP claims he was given a choice and insisted on using a pole.

The burden is on the utility to maintain and produce records created at the time a customer orders a service or makes a request. Particularly here, where CMP is claiming that the customer insisted on the pole, which would seem to be out-of-the ordinary, the Company should have maintained timely records about the request. Because CMP has produced no contemporaneous records or other proof as to the conversations that took place, we find that CMP should repurchase the pole.

Dated at Augusta, Maine, this 16<sup>th</sup> day of April, 2003.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Nugent  
   Diamond

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5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

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